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A. Chesapeake Bay Restoration Requirements

You must comply with the requirements in this section if you meet ALL of these criteria:

- your facility is within the Chesapeake Bay Watershed;
- your facility is 5 acres or greater in size;
- any portion of your facility is located within a Phase I or Phase II municipal separate storm sewer system (MS4) jurisdiction; and
- your facility is not owned by or leased from an entity that is permitted as an MS4.

All facilities, including those smaller than 5 acres, have the option to perform restoration to create marketable credits in accordance with any final Maryland Water Quality Trading Program regulations (COMAR 26.08.11). (Refer to Appendix G).

1. Control Measures for Nutrient Reduction
   - **a.** You must select, design, install and implement restoration of 20% of the untreated impervious surface area at your facility or equivalent control measures for the reduction of nutrients.
     - ***i.)*** Restoration of impervious surfaces and allowed equivalent control measures are defined in paragraph "c" below.
     - ***ii.)*** "Untreated" means not meeting the definition of treatment in Appendix E, "Treatment of Impervious Surfaces." The amount of required restoration is determined from the impervious areas within your permitted industrial area as defined in paragraph "b" below. However the control measures may be implemented outside this industrial area, including but not limited to restoration of parking lots within your entire facility, or projects offsite in coordination with your local stormwater authority as described in paragraphs "c" or "d" below.
     - ***iii.)*** The control measures must be fully implemented within the time frame described in paragraph "e" below and must be consistent with other MDE policies as described in paragraphs "f" and "g" below.
   - **b.** The total area of untreated impervious surfaces that existed at your facility on January 1, 2006, as determined to the best of your ability, shall be your baseline for determining the applicable amount of control measures. For the purposes of this permit requirement, impervious surfaces are those surfaces that do not allow stormwater to infiltrate into the ground and may include any driveway, road or parking lot that is paved (concrete, asphalt) or used for vehicular storage or traffic, any building or storage facility rooftop, any water resistant material covers, any sidewalks/paths, any decks, any paved storage areas, any tanks or containment structures or any surfaces that are paved or covered for other reasons. These impervious surfaces also must collect or convey stormwater discharges associated with industrial activity (as defined in Appendix E "Stormwater Discharges Associated with Industrial Activity"), for your primary industrial or co-located industrial activities at your facility.
   - **c.** Control measures must be designed and implemented using any combination of the

following three methods. Any treatment of impervious surfaces added since January 1, 2006 may be counted towards meeting the 20% requirement.

i.) Practices found in the Design Manual (as defined in Appendix E, "Design Manual"), or other Proprietary Practices (as defined in Appendix E, "Proprietary Practices") approved by the Department. Restoration of impervious surfaces is defined as the treatment of untreated impervious surfaces with structural or non-structural stormwater management practices using structural best management practices (BMPs) found in the Design Manual, or through other Proprietary Practices approved by the Department, based upon designs that treat the volume from one inch of rainfall. Successful implementation of these structural BMPs in the industrial environment also requires some flexibility to accommodate site specific conditions. Restoration opportunities should be pursued where they make sense and where engineering adjustments allow for the successful functioning of any BMP used. The sources of pollutants that may impede the practices may require specific consideration such as pretreatment.

ii.) Practices found in the Accounting Guidance (as defined in Appendix E, "Accounting Guidance"). This nutrient accounting guidance provides several approved equivalent controls used by municipalities ranging from street sweeping to septic system upgrades, which can be considered by industrial facilities. In addition, this guidance addresses situations where site constraints prevent the capture of the full one inch or Water Quality Volume (WQv) treatment, and in these situations the impervious area considered as treated shall be pro-rated based on the total volume treated. The total impervious surface area draining to a BMP may be considered treated when the full WQv is provided for one inch of rainfall; otherwise, proportional treatment will be granted based on the percentage of the WQv captured. For example, if only a half inch of rainfall is treated, then only one half of the impervious surface area in the drainage area shall be considered treated.

iii.) Other equivalent control measures. Measures that achieve reduction of 5.4 lbs total nitrogen (TN) per year shall be considered equivalent to restoration of one acre of impervious surface area. The equivalent measures may include any of these options.

- New controls required by this permit for erosion and sediment control, or for reduced use of fertilizer. Refer to EPA Chesapeake Bay Program Office Phase 5.3 Community Watershed Model, dated December 2010, for guidance on evaluating reductions. This is referred to by document number "EPA 903S10002 - CBP/TRS-303-10" and can be found at the website "[HYPERLINK "http://ches.communitymodeling.org/models/CBPhase5/documentation.php"]". New erosion and sediment control reduction efficiencies are found in this document under "6.7.3 Erosion and Sediment Control" and reduced use of

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fertilizer load reductions are found under "6.7.10 Urban Nutrient Management".

- New controls to achieve the benchmarks for nitrogen required by this permit, if benchmarks are applicable for your facility. The control design and resulting TN reductions must be fully documented and approved by the Department.
- Reducing an existing TN load allocation under an individual NPDES permit, issued to the permittee.
- Trading to acquire TN credits, but only as authorized under, and in accordance with, any final Maryland Water Quality Trading Program regulations (COMAR 26.08.11).

d. You may implement these control measures (Part III.A.1.c) at your facility(s) by working through your local stormwater jurisdiction, or through trading. If you intend to trade to meet these requirements, you must notify the Department and address all applicable regulatory requirements including all reporting and notification requirements under Appendix G of this permit.

e. The reduction of nutrients associated with compliance with the 20% restoration requirement shall not generate any marketable credits. Reductions beyond the requirements in this permit may be eligible as marketable credits in accordance with any final Maryland Water Quality Trading Program regulations (COMAR 26.08.11). .

f. This requirement must be implemented in a manner that is consistent with any other permits, schedules or requirements by the Department for the control or mitigation of pollutants at the site.

2. Nutrient Control Measure Verification

When the required selection of BMPs and equivalent measures have been implemented, you shall obtain written certification by either a Professional Engineer (PE), a Certified Professional in Storm Water Quality (CPSWQ), a Registered Architect, or a Landscape Architect. The certification shall be kept with your SWPPP and be accessible to the Department upon request.This certification is to provide verification that:

- the type and capacity of the control(s) specified in the SWPPP meet the current design standards specified in the Design Manual, approved Proprietary Practices specification or Accounting Guidance satisfying the permit restoration requirements;
- all equivalent measures specified in the SWPPP have been implemented to achieve the planned nutrient reduction levels;
- all structural BMPs in the SWPPP are properly maintained in accordance with approved design plans;
- all BMPs are supported by procedures in the SWPPP for required inspections and testing;
- all BMPs are fully implemented; and

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- the professional signing the verification has visited and examined the facility.

3. Compliance Schedule, Final Deadlines, and Ongoing Requirements:
   a. For facilities that were registered for coverage under the 02-SW, the control measures must be implemented by December 31, 2020. The schedule does not preclude any additional terms and conditions that a new permit may impose on your facility.

   b. For all other permittees, the control measures must be implemented within four (4) years from the date you file an NOI, and this deadline will continue into the next General Permit issued by the State if the General Permit renewal occurs prior to your implementation deadline

   c. For those facilities that have certified their implementation of the Chesapeake Bay Restoration requirements of this permit (see paragraph 2) by December 31, 2018, you must continue to maintain structural practices, and/or continue to perform any non-structural requirements (such as street sweeping or trading), yearly as required by this permit, as long as this permit remains effective (or administratively extended).

   d. For those facilities subject to the restoration requirement of this permit that have not fully completed those requirements by December 31, 2018, you must
   i.) provide a SWPPP that includes your current restoration plan and, in addition, complete the Nutrient Reduction Progress Report Form, provided in Appendix F, and send both documents by December 31 of each calendar year until the work is complete or
   ii.) achieve your reductions annually via trading. Operators seeking to achieve nutrient reduction via trading must provide additional information on a Department approved form consistent with trading requirements when available under COMAR 26.08.11. (Refer to Appendix G).

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